

## REMARKS

### I. Status of the Claims

Claims 49-51, 54-57, 60-63, and 66-67 remain in this application. Claims 49, 50, 55, 56, 61, 62, and 67 are amended in this response. Claims 52, 53, 58, 59, 64, 65, and 68-70 are canceled in this response. Claims 1-48 were previously canceled. Support for the amendment of "up to about 20 wt. %" to "of about 20 wt. %" is found in the specification at page 13, line 3.

### II. Response to the "Same Invention" Double Patenting Rejection

Examiner has rejected claim 49 under 35 U.S.C. 101 as claiming the same invention as that of claim 1 of prior U.S. Pat. No. 6,765,041. Applicants respectfully assert that the present claim 49 and claim 1 of the '041 patent do not claim the same invention.

Claim 1 of the '041 patent claims a "polymer matrix composition for plastics applications comprising: (a) a pigment, said pigment comprising an inorganic pigmentary base that has been treated with an organo-acid phosphate compound having the formula...". The current claim 49 claims

In comparison, the current claim 49 claims a "polymer matrix composition for plastics applications comprising: (a) a pigment, said pigment comprising an inorganic pigmentary base that has been treated with a salt of an organo-acid phosphate compound having the formula..." (emphasis added to show the difference).

Because the current claim 49 requires the salt of an organo-acid phosphate rather than the organo-acid phosphate compound, Applicants respectfully ask the Examiner to reconsider and withdraw the rejection.

### III. Response to the Nonstatutory Obviousness-type Double Patenting Rejections

Examiner has rejected claim 50-55 on the ground of nonstatutory obviousness-type double patenting over claims 1-3, 4-13 and 15-26 of U.S. Pat. No. 6,765,041 and claims 56-70 over claims 1-18 of U.S. Pat. No. 6,713,543.

In order to facilitate processing of the current application, Applicants are submitting the attached Terminal Disclaimers under 37 C.F.R. 1.321(c). The terminal disclaimers meet the requirements of the statute.

#### IV. Response to the Section 112 Rejections

Applicants have cancelled claims 53, 59, 65 and 68-70, thus obviating the rejections under Section 112, second paragraph.

#### V. Response to the Section 102 or 103 Rejections

##### A. Rejection over Ono

Applicants traverse the rejection of claims 50-52, 55-58, 61-64 and 67 under 35 U.S.C. § 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as obvious over Ono et al. (US 5,026,634), and they respectfully ask the Examiner to reconsider and withdraw the rejection in view of the following remarks.

Applicants have amended claims 50, 55, 56, 61, 62, 67 to read “an amount of about 20 wt.% based on the weight of the polymer film.” Thus, this range no longer encompasses 0 wt.% of the treated pigment as asserted by Examiner. In addition, there is nothing in Ono to suggest the use of the treated pigments (comprising titanium dioxide and an organo-acid phosphate compound) of the current invention. Specifically, at Col. 39, lines 14-32 cited by Examiner, Ono does not teach the use of treated titanium dioxide, but only “titanium dioxide” pigment with no mention of any treatment.

In sum, Ono does not anticipate and does not suggest Applicants’ claimed polymer film.

##### B. Rejection over Losoi or Abeck

Applicants traverse the rejection of claim 70 under 35 U.S.C. § 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as obvious over Losoi (US 5,165,995) or Abeck et al. (US 3,652,334). In light of Applicants’ having canceled claim 70 in this response, this rejection is now moot.

### C. Rejection over Igarashi

Applicants traverse the rejection of claims 49, 50 and 55 under 35 U.S.C. § 102(e) as being anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as obvious over Igarashi (US 6,207,226), and they respectfully ask the Examiner to reconsider and withdraw the rejection in view of the following remarks.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d at 631 (Fed. Cir. 1987). Applicants respectfully contend that the metallic coating method described in Igarashi does not anticipate the presently claimed polymer matrix (or films) because Igarashi fails to teach each and every element as set forth in Applicants' claimed invention. Igarashi teaches aluminum flakes coated with 2-10 parts by weight of C<sub>8-18</sub> alkyl ester of phosphoric acid. Applicants' current claims 49, 50, and 55 now require that the inorganic pigment is titanium dioxide. Thus, Igarashi does not anticipate the current claims 49, 50 and 55.

In addition, Applicants' claims 49, 50, and 55 require that the polymer matrix, or film, has "an essential absence of water and an essential absence of organic solvents." In contrast, Igarashi teaches a dispersion that is "basically one formed by dispersing aluminum flakes which have been surface-treated with the phosphoric acid alkyl ester in organic solvent. If necessary, it is permissible to further blend thereinto thermosetting paint resin composition..." (see Col. 3, lines 52-58, emphasis added). Thus, Igarashi teaches a blend of phosphoric acid alkyl ester surface-treated aluminum flakes with an optional resin in an organic solvent, in contrast to Applicants' requirement that the polymer matrix, or film, has an essential absence of water and an essential absence of organic solvents.

In addition to failing to anticipate Applicants' claimed polymer matrix, or film, there is nothing in the Igarashi that suggests the claimed polymer matrix, or film. Igarashi is directed at a coating method (see Abstract) and not a polymer matrix or film. There is nothing in Igarashi which would suggest that a polymer matrix (or film) for

plastics applications, comprising an organoacid phosphate-treated titanium dioxide and a polymer, and having an essential absence of water and an essential absence of organic solvents, would result in improved physical and chemical qualities including lacing resistance, improved dispersion and decreased chemical reactivity when these treated pigments are incorporated into polymeric matrices.

In sum, Igarashi does not anticipate and does not suggest Applicants' claimed polymer matrix (or film).

In view of the foregoing, Applicants respectfully ask the Examiner to reconsider and withdraw the rejections and pass the case to issue. Applicants invite the Examiner to telephone their attorney at (610) 359-2465 if Examiner believes that a discussion of the application might be helpful.

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first-class mail, with sufficient postage, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on December 22, 2006.

Kevin M. Carroll  
Name of person signing

Kevin M. Carroll  
Signature

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Respectfully submitted,

Modasser El-Shoubary et al.

By: Kevin M. Carroll  
Kevin M. Carroll  
Reg. No. 44,596  
Attorney for Applicants  
Lyondell Chemical Company  
3801 West Chester Pike  
Newtown Square, PA 19073  
Phone: (610) 359-2465  
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**CUSTOMER NUMBER 24114**